



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/879,613	06/12/2001	John Skoufis	33121.2130	5295

31013 7590 10/19/2005

KRAMER LEVIN NAFTALIS & FRANKEL LLP
INTELLECTUAL PROPERTY DEPARTMENT
1177 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

EXAMINER

MOHANDESI, JILA M

ART UNIT	PAPER NUMBER
----------	--------------

3728

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/879,613
Filing Date: June 12, 2001
Appellant(s): SKOUFIS, JOHN

MAILED

OCT 19 2005

Group 3700

Gregor N. Neff
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed July 29, 2005 appealing from the Office action mailed April 04, 2004.

1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,012,576	ONODERA	01-2000
5,988,371	PALEY et al.	11-1999

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3728

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-5, 9 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Onodera (6,012,576) in view of Paley et al. (5,988,371). Onodera `576 discloses a package cleaning article for use in clean rooms, said cleaning article (brush 15 with fibrous or sponge-like member 17) having particulate, metal ion and ionic counts at or below the values specified for clean room, said package comprising a sealed container (shell 2 and top 3), said cleaning article being positioned in said container, and containing a quantity of de-ionized water, said de-ionized water containing hydrogen peroxide in concentration (1 to 5% hydrogen peroxide) effective to kill and retard the growth of bacteria in said cleaning article, said amount being low enough to substantially ensure decomposition of said hydrogen peroxide in a relatively short period of time after the container is sealed. See column 3, lines 1-11. Onodera `576 as described above discloses all the limitations of the claims except for the container to be a flexible plastic bag and the specific degree of range of the hydrogen peroxide. Paley `371 discloses storing a cleaning article in a flexible bag which can be opened and the bag can resealed for future use and can easily be shipped and handle. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the container of Onodera `576 as a flexible plastic bag as taught by Paley `371 for easier shipping and handling.

With respect to the material of the cleaning article because Applicant has not disclosed that the material provides an advantage, is used for particular purpose, or

Art Unit: 3728

solves a stated problem, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the material of the cleaning device, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

With respect to the concentration of the hydrogen peroxide in the bactericidal liquid, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the amount of hydrogen peroxide in the bactericidal liquid, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Claims 1, and 3-5 are directed to an obvious method of packaging the brush/sponge of Onodera '576 as modified above.

(10) Response to Argument

Applicant characteristic of Onodera reference that the concentrations of the bactericidal liquids, including hydrogen peroxide will last six months, is mere speculation, even if it was not speculation it would still be a change in degree of range and not a change in the kind of function, because both the Onodera reference and the instant application teach using bactericidal liquid including hydrogen peroxide to kill bacteria. It has been held that where the general conditions of a claim are disclosed in

Art Unit: 3728

the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Jila Mohandesi


 **JILA M. MOHANDESI**
PRIMARY EXAMINER

Conferees:

Mickey Yu

 **Mickey Yu**
Supervisory Patent Examiner
Group 3700

Shian Luong

 **SHIAN LUONG**
PRIMARY EXAMINER